

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

FILED

JUN 20 2017

UNITED STATES OF AMERICA,)

Plaintiff,)

-vs-)

DENNIS LEE,)

KENNETH DALE SMITH,)

a/k/a Kenny Smith, and)

DAVID ADUDDELL,)

Defendants.)

CARMELITA REEDER SHINN, CLERK
U.S. DIST. COURT, WESTERN DIST. OKLA.
BY Kathy Row, DEPUTY

No. CR-17-11-R

Violations: 18 U.S.C. § 371
18 U.S.C. § 2(a)
18 U.S.C. § 2315
18 U.S.C. § 922(g)(1)
18 U.S.C. § 924(d)
18 U.S.C. § 981(a)(1)(C)
28 U.S.C. § 2461

THIRD SUPERSEDING INDICTMENT

The Federal Grand Jury charges:

COUNT 1
(Conspiracy)

1. From in or around December 8, 2015, and continuously thereafter until on or about August 26, 2016, in the Western District of Oklahoma and elsewhere,

-----**DENNIS LEE and**
KENNETH DALE SMITH,
a/k/a Kenny Smith,-----

knowingly and intentionally and with interdependence combined, conspired, confederated, and agreed, together and with other persons known to the Federal Grand Jury, to commit an offense against the United States, that is to unlawfully receive, possess, and store stolen goods valued at \$5,000 or more, which had crossed a state boundary after being stolen, unlawfully converted, and taken, knowing the items to have been stolen, converted, and taken, in violation of Title 18, United

States Code, Section 2315.

Object of the Conspiracy

2. Conspirators, including persons known to the Federal Grand Jury, stole items, merchandise, trailers, and goods of value, to include, but not limited to motorized vehicles: tractors with attachments, golf carts, all-terrain vehicles (ATVs), utility task vehicles (UTVs), rough-terrain vehicles (RTVs), and zero-turn riding lawn mowers (ZTRs), valued at \$5,000 or more, from within Oklahoma and surrounding states, including Texas, Kansas, Missouri, and Nebraska. The approximate value of the stolen properties was \$325,000. The conspirators transported, among other stolen items, the stolen motorized vehicles to the Western District of Oklahoma.

3. The goal of the conspiracy was to “fence” (the procedure of receiving, possessing, storing, and disposing of stolen goods) stolen goods of value, to include but not limited to stolen motorized vehicles, through conspirators known to the Federal Grand Jury, including **DENNIS LEE** and **KENNETH DALE SMITH, a/k/a Kenny Smith**, knowing many of the items had been stolen from the surrounding states.

Overt Acts

4. To further and accomplish the objective of the conspiracy, one or more conspirators committed the following overt acts in the Western District of Oklahoma and elsewhere:

a) On or about July 17, 2016, persons known to the Federal Grand Jury stole a 2016 Arctic Cat HDX 700 XT Rough Terrain Vehicle (RTV), Vehicle Identification Number (VIN): 4UF16MPV36T307174, from Perkins, County, Nebraska, and transported

the RTV to the Western District of Oklahoma. The value of the RTV was approximately \$13,294.00.

b) During the course of the conspiracy, persons known to the Federal Grand Jury transported stolen property from out of state to Richardson Homes, LLC, 11625 S. Portland, Oklahoma City, Oklahoma. The leaseholder for this property was co-conspirator **DENNIS LEE**, also doing business as Richardson Homes.

c) During the course of the conspiracy, stolen property was also stored at 14636 S. May, Oklahoma City, Oklahoma. This location was in the possession of co-conspirator **KENNETH DALE SMITH, a/k/a Kenny Smith**.

d) During the course of the conspiracy, the co-conspirators communicated by cell phone to include “texting” each other and “texting” potential buyers of the stolen items.

e) During the course of the conspiracy, the co-conspirators possessed the following items, among others, stolen from Texas, Kansas, and Missouri, and transported to the Western District of Oklahoma:

| Description | Appx. Date of Theft |
|---|--------------------------|
| 1) 2007 Chevrolet 2500 HD extended cab long bed, 4X4; white in color VIN: 16CHK29K57E591081 Value: \$10,000 Stolen from: Terry County, Texas | December 8, 2015 |
| 2) Yamaha Kodiak ATV VIN: 5Y4AJ14Y15A007006 Value: \$5,000 Stolen from: Smith County, Kansas | February 29, 2016 |

| | |
|--|---------------------|
| 3) Polaris Sportsman 400, 4x4, 2005 Model ATV VIN: 4XAMH42A45A626876 Value \$4,000 Stolen from: Foard County, Texas | June 7, 2016 |
| 4) 2016 STAR Golf Cart four passenger, black in color VIN: 16A4842596SLH00 Value: \$9,300 Stolen from: Lubbock, Texas | June 16, 2016 |
| 5) E-Z-GO golf cart, four seater green in color with lift kit S/N: 5033053 Value: \$5,500 Stolen from: Whitesboro, Texas | June 30, 2016 |
| 6) 2015 Kubota Rough Terrain Vehicle (RTV) Model-X1100CRL-H, VIN: 20873 Value: \$17,759 Stolen from: Ellis County, Kansas | July-September 2016 |
| 7) a) 2002 Polaris 700 ATV, VIN: 4XACH68C92A553533, b) John Deere Lawn Mower, Zero Turn, Model-M655 VIN:4YNBN20227C045157, and c) 20-foot metal flatbed trailer, VIN: 1J9HH303GT1116006 Value: \$15,000 Stolen from: Hodgeman County, Kansas | July 19, 2016 |
| 8) a) 16-foot Roadclipper Tandem Axel with built in ramps VIN: 46UFYU182811074117 Value: \$2,500 b) 2015 John Deer Gator, Model 825, VIN: 1M0825GECFM103551 Value: \$16,500 c) 2014 John Deere Lawn Mower, Zero Turn (ZTR), Model-997, VIN: 1TC9975CC9F090434 Value: \$17,000 Stolen from: Missouri | August 8, 2016 |

| | |
|--|------------------------|
| 9) 2002 Silver Dodge pickup VIN: 1GCHK29K57E591081 Value: \$18,000 Stolen from: Collingsworth County, Texas | August 25, 2016 |
|--|------------------------|

5. The Federal Grand Jury re-alleges and incorporates by reference all statements and allegations contained in Counts 2-4 of this Third Superseding Indictment, as though fully set forth herein as overt acts.

All in violation of Title 18, United States Code, Section 371 and Title 18, United States Code, Section 2(a).

COUNT 2
(Possession of Stolen Property Which Crossed a State Boundary)

6. On or about September 29, 2016, in Grady County, Oklahoma, within the Western District of Oklahoma,

-----**DENNIS LEE**-----

knowingly received, possessed, concealed, and stored stolen property, that is a 2014 John Deere Tractor, Model 3030E, Vehicle Identification Number (VIN): 1LV3038EJEH610921, with a front end loader and grooming mower, a value of \$5,000 or more, which tractor was stolen from Ford County, Kansas, on or about April 22, 2016, and subsequently crossed a state boundary and brought in to Oklahoma after being stolen, unlawfully converted, and taken, knowing the same to have been stolen, unlawfully converted, and taken.

All in violation of Title 18, United States Code, Section 2315 and Title 18, United States Code, Section 2(a).

COUNT 3

(Possession of Stolen Property Which Crossed a State Boundary)

7. On or about June 16, 2016, in Oklahoma County, Oklahoma, within the Western District of Oklahoma,

-----**DENNIS LEE and
DAVID ADUDELL**-----

knowingly received, possessed, concealed, and stored stolen property, that is a red 2016 E-Z-GO six-passenger, gas-operated golf cart, Vehicle Identification Number (VIN): 3168357, valued at \$5,000 or more, which golf cart was stolen from Lubbock, Texas, on or about June 16, 2016, and subsequently crossed a state boundary and brought in to Oklahoma after being stolen, unlawfully converted, and taken, knowing the same to have been stolen, unlawfully converted, and taken.

All in violation of Title 18, United States Code, Section 2315 and Title 18, United States Code, Section 2(a).

COUNT 4

(Possession of Stolen Property Which Crossed a State Boundary)

8. On or about June 16, 2016, in Cleveland County, Oklahoma, within the Western District of Oklahoma,

-----**DENNIS LEE and
KENNETH DALE SMITH,
a/k/a Kenny Smith,**-----

knowingly received, possessed, concealed, and stored stolen property, that is a red 2016 E-Z-GO six-passenger, electric-operated golf cart, Vehicle Identification Number (VIN): 3204263 valued at \$5,000 or more, which golf cart was stolen from Abilene, Texas, on or

about June 15, 2016 and subsequently crossed a state boundary and brought in to Oklahoma after being stolen, unlawfully converted, and taken, knowing the same to have been stolen, unlawfully converted, and taken.

All in violation of Title 18, United States Code, Section 2315 and Title 18, United States Code, Section 2(a).

COUNT 5
(Felon in Possession of a Firearm)

9. On or about November 10, 2016, in McClain County, Oklahoma, within the Western District of Oklahoma,

-----DENNIS LEE,-----

having previously been convicted of a crime punishable by a term of imprisonment exceeding one year, knowingly possessed the following firearms:

- 1) Glock, Model 17, 9mm semi-automatic pistol, bearing serial number BMR558US;
- 2) Smith & Wesson, Model 66, .357 revolver, bearing serial number 98K8979;
- 3) Magnum Research Inc., .44 caliber Desert Eagle semi-automatic, bearing serial number DK0019881;
- 4) SIG Sauer, Model P290 RS, 9mm semi-automatic pistol, bearing serial number 26C023719;
- 5) Smith & Wesson, 642, .38 caliber revolver, bearing serial number CPT7853;
- 6) Mossberg, Model 500, 12-gauge shotgun, bearing serial number U764804;
- 7) Taurus, Model PT 24-762, .40 caliber pistol, bearing serial number SHN05738;

- 8) Ruger, Model P89, 9mm pistol, bearing serial number 31033366;
- 9) Bushmaster Firearms, Model XM 15-E2S .223 rifle, bearing serial number ARB24713;
- 10) Remington Arms Company, Model 870 Express, 12-gauge shotgun, bearing serial number W826464M;
- 11) CBC, Model 715T, .22 caliber rifle, bearing serial number ELF3419614;
- 12) Smith & Wesson, Model M&P 15, 5.56 caliber rifle, bearing serial number SU01970;
- 13) Ruger, Model Super Blackhawk, .44 caliber revolver, bearing serial number 81-16084;
- 14) Ordnance Mfg. Inc., Model P10, .45 caliber pistol, bearing serial number TM1494;
- 15) Smith & Wesson, Model 63, .22 revolver, bearing serial number CBY2817;
- 16) Smith & Wesson, Model 64, .38 caliber revolver, bearing serial number D668479;
- 17) Savage, Model 110, 7mm rifle, bearing serial number F642749, and
- 18) Winchester, Model 1200, 12-gauge shotgun, bearing no serial number,

all of which were in and affecting interstate commerce in that said firearms had previously crossed state lines to reach the state of Oklahoma.

All in violation of Title 18, United States Code, Section 922(g)(1), the penalty for which is found at Title 18, United States Code, Section 924(a)(2).

FORFEITURE

A. The allegations contained in this Third Superseding Indictment are hereby re-alleged and incorporated for the purpose of alleging forfeiture.

B. Upon conviction of any of the offenses alleged in this Third Superseding Indictment, defendants, **DENNIS LEE, DAVID ADUDELL, and KENNETH DALE SMITH, a/k/a Kenny Smith**, shall forfeit to the United States any property constituting, or derived from, any proceeds obtained, directly or indirectly, and any property used, or intended to be used, in any manner or part, to commit or to facilitate the commission of such offense(s), and any and all firearms and ammunition involved in the commission of the offense(s), including but not limited to:

- 1) A money judgment in an amount equal to the proceeds obtained as a result of the offenses;
- 2) Glock, Model 17, 9mm semi-automatic pistol, bearing serial number BMR558US;
- 3) Magnum Research Inc., .44 caliber Desert Eagle semi-automatic, bearing serial number DK0019881;
- 4) SIG SAUER, Model P290 RS, 9mm semi-automatic pistol, bearing serial number 26C023719;
- 5) Smith & Wesson, 642, .38 caliber revolver, bearing serial number CPT7853;
- 6) Mossberg, Model 500, 12-gauge shotgun, bearing serial number U764804;
- 7) Taurus, Model PT 24-762, .40 caliber pistol, bearing serial number SHN05738;

- 8) Ruger, Model P89, 9mm pistol, bearing serial number 31033366;
- 9) Bushmaster Firearms, Model XM 15-E2S .223 rifle, bearing serial number ARB24713;
- 10) Remington Arms Company, Model 870 Express, 12-gauge shotgun, bearing serial number W826464M;
- 11) CBC, Model 715T, .22 caliber rifle, bearing serial number ELF3419614;
- 12) Smith & Wesson, Model M&P 15, 5.56 caliber rifle, bearing serial number SU01970;
- 13) Ruger, Model Super Blackhawk, .44 caliber revolver, bearing serial number 81-16084;
- 14) Ordnance Mfg. Inc., Model P10, .45 caliber pistol, bearing serial number TM1494;
- 15) Smith & Wesson, Model 63, .22 revolver, bearing serial number CBY2817;
- 16) Savage, Model 110, 7mm rifle, bearing serial number F642749;
- 17) Winchester, Model 1200, 12-gauge shotgun, bearing no serial number; and
- 18) Any and all magazines and ammunition not otherwise specified.

C. Upon conviction of any of the offenses alleged in this Third Superseding Indictment, defendant **DENNIS LEE** shall forfeit to the United States any property constituting, or derived from, any proceeds obtained, directly or indirectly, and any property used, or intended to be used, in any manner or part, to commit or to facilitate the commission of such offense(s), and any and all firearms and ammunition involved in the commission of the offense(s), including but not limited to:

- 1) All that lot and parcel of land, together with all buildings, appurtenances, improvements, fixtures, attachments and easements thereon, and all rights appertaining thereto, located at 2618 Highway 37, Tuttle, Oklahoma, also known as Richardson Homes.

D. Upon conviction of any of the offenses alleged in this Third Superseding Indictment, defendant **KENNETH DALE SMITH, a/k/a Kenny Smith**, shall forfeit to the United States any property constituting, or derived from, any proceeds obtained, directly or indirectly, and any property used, or intended to be used, in any manner or part, to commit or to facilitate the commission of such offense(s), and any and all firearms and ammunition involved in the commission of the offense(s), including but not limited to:

- 1) All that lot and parcel of land, together with all buildings, appurtenances, improvements, fixtures, attachments and easements thereon, and all rights appertaining thereto, located at 14636 South May Avenue, Oklahoma City, Oklahoma 73170-5501 (Cleveland County).

E. Pursuant to Title 21, United States Code, Section 853(p), as adopted by Title 28, United States Code, Section 2461(c), the defendants shall forfeit substitute property, up to the value of the property described above if, by any act or omission of defendants, the property described above, or any portion thereof, cannot be located upon the exercise of due diligence; has been transferred or sold to, or deposited with, a third person; has been placed beyond the jurisdiction of the Court; has been substantially diminished in value; or has been commingled with other property that cannot be subdivided without difficulty.

All pursuant to Title 18, United States Code, Section 924(d), Title 18, United States Code, Section 981(a)(1)(C), and Title 28, United States Code, Section 2461.

A TRUE BILL:



FOREPERSON OF THE GRAND JURY

MARK A. YANCEY
United States Attorney



EDWARD J. KUMIEGA
ASHLEY L. ALTSHULER
Assistant U.S. Attorneys